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2 **THE HELMS LAW FIRM, P.L.C.**
3 2600 North Central Avenue, Suite 940
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7 Attorneys for Plaintiff Best Western
8 International, Inc.

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 Best Western International, Inc., an
12 Arizona non-profit corporation,

13 Plaintiff

14 vs.

15 Horizon Hospitality, L.L.C., an Alabama
16 limited liability company; and Vijay Patel,
17 an individual,

18 Defendants.

19 STATE OF ARIZONA)

20) ss.

21 County of Maricopa)

No. CV 08-1932-PHX-HRH

**SUPPLEMENTAL AFFIDAVIT IN
SUPPORT OF APPLICATION FOR
DEFAULT JUDGMENT**

22 Cheryl Pollack, being first duly sworn upon her oath, deposes and says:

23 1. I am Director of Member Services Administration of BEST WESTERN
24 INTERNATIONAL, INC., an Arizona non-profit corporation.

25 2. I am the custodian of the business records of BEST WESTERN with
26 respect to the relationship between BEST WESTERN and its members and former
members. I make this affidavit based upon the information contained within those
documents and records of BEST WESTERN of which I am the custodian of records. I
am authorized by BEST WESTERN to make this affidavit.

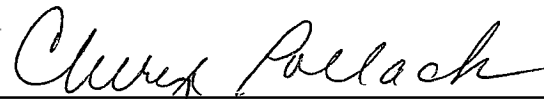
3. On or about December 20, 2006, Horizon Hospitality, L.L.C., an Alabama
limited liability company; and Vijay Patel executed and delivered to BEST WESTERN a
Membership Application and Agreement requesting membership in the BEST
WESTERN organization with respect to the Birmingham Airport Hotel located in or near
Birmingham, Alabama (the "Hotel"). BEST WESTERN accepted this application and

1 granted Horizon Hospitality, L.L.C., and Vijay Patel membership in the BEST
2 WESTERN organization with respect to the Hotel.

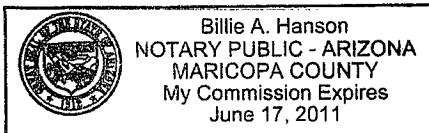
3 4. The original, signed copy of the Membership Application and Agreement
4 has been misplaced by Best Western and has apparently been lost. However, attached
5 hereto as **Exhibit 1** is a copy of the Best Western Membership Agreement required to be
6 signed by all Best Western members, and which is a copy of the same agreement signed
7 by Defendants and submitted to Best Western in December, 2006.

8 5. Defendants' Membership Agreement Application and Agreement was
9 conditionally accepted by Best Western and made subject to the additional terms and
10 conditions of a "Terms of Approval" letter and agreement, dated December 20, 2006, and
11 signed by Defendants on January 3, 2007. The "Terms of Approval" letter acknowledged
12 receipt and approval of Defendants' Membership Application and Agreement, and further
13 contained agreement by Defendants to be responsible for all obligations arising under the
14 Membership Application and Agreement (p.9, "Terms of Approval" letter). A copy of
15 the "Terms of Approval" letter is attached hereto as **Exhibit 2**.

16 Dated this 5th day of March, 2009.

17 
18 Cheryl Pollack

19 SUBSCRIBED AND SWORN to before me this 5th day of March, 2009.



21 
22 Notary Public

23 My Commission Expires:

24 June 17, 2011

EXHIBIT 1



BEST WESTERN INTERNATIONAL, INC.

MEMBERSHIP APPLICATION AND AGREEMENT

Date: _____

Current Hotel Name (if applicable): _____

City and State/Province (Hotel Location): _____

Description of Membership Application and Agreement

1. This Membership Application and Agreement contains four parts. The Application for Membership section sets out the terms which will be applicable to the application process. If the application is approved in writing by Best Western, the Membership Agreement and License Agreement sections will control the relationship between Applicant and Best Western. The General Provisions section applies to the entire Membership Application and Agreement.

2. This Membership Application and Agreement is submitted to affiliate with Best Western the hotel identified at the top of this page ("Hotel"). A guest room is any sleeping facility available through or managed through the Hotel front desk. If the Hotel is currently being operated as a "Best Western", the date of sale or transfer to Applicant is _____.

3. This Membership Application and Agreement is made jointly by the owner or lessee of the Hotel and a natural person known as the voting member. The owner or lessee of the Hotel is _____. The voting member is _____. THE OWNER OR LESSEE AND THE VOTING MEMBER ARE EACH PERSONALLY RESPONSIBLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS TO BEST WESTERN ARISING UNDER THIS MEMBERSHIP APPLICATION AND AGREEMENT OR RELATING TO THE AFFILIATION OF THE HOTEL WITH BEST WESTERN. Throughout this document the owner or lessee and the voting member are jointly referred to as "Applicant".

Part I. Application for Membership

Application Fees

4. All application fees referenced herein are payable in U.S. funds or Canadian funds that are equivalent to the U.S. funds (see Canadian Fee Schedule). Applicant has submitted, in connection with this application, an entrance fee which includes an affiliation fee and an evaluation fee. The evaluation fee is non-refundable and is to cover the administrative costs of processing the application. Payment of the evaluation fee entitles Applicant to an administrative work-up of the application. Payment of any fee or submission of this application does not give Applicant any right to affiliation with Best Western under any circumstances. The Board of Directors ("Board") may deny this application for any or no reason. The affiliation fee will be refunded without interest in the event that this application is denied or in the event that the application is withdrawn before Best Western approval.

Current "Best Western"

5. In the event that the Hotel is currently receiving services from Best Western, Best Western may permit Applicant to continue operating the Hotel as a "Best Western". In that event, Applicant agrees to pay the usual fees and charges relating to Best Western membership, beginning upon the earlier of Applicant's possession or ownership of the property or Hotel. During the pendency of this application, Applicant agrees to abide by all terms of the Membership Agreement and License Agreement as though Applicant were affiliated with Best Western. If this application is denied, Applicant agrees to be subject to the obligations and remedies provided in the License Agreement.

Conditions of Application

6. As a condition to presentation of this application to the Board, unless waived in writing by Best Western:

(a) If the Hotel is currently operated as a "Best Western", Applicant shall pay all past due fees, dues, assessments and charges, and the cost of all goods and services which have been incurred by prior members in connection with the Hotel, whether or not Applicant has received the goods or services or membership benefits.

(b) Applicant shall cure any past or current obligations or defaults to Best Western at other "Best Western" hotels owned or operated by Applicant.

Approval of Application

7. Except as provided in this paragraph all fees will become non-refundable upon approval of this application by Best Western. Best Western approval may be subject to certain additional applicant-specific conditions which will be communicated in writing along with Best Western's approval of this application. If the approval is subject to additional applicant-specific conditions, Applicant may reject the conditions within fifteen (15) days of the notification, in which case the application will be deemed to have been withdrawn. If Applicant does not reject the additional conditions, the application will be deemed approved subject to the conditions imposed by Best Western and all fees will become non-refundable.

8. In the event that approval is subject to additional applicant-specific conditions, the approval for membership shall be "conditional". Strict compliance with each condition and with each representation made by the Applicant, and strict adherence and compliance with all Best Western specifications, are required for the granting of membership. Time is of the essence. Best Western shall have no obligation to extend the time for Applicant's compliance with the conditions, even if the Applicant has attempted to perform all conditions in good faith and has substantially met all conditions. Unless specifically provided by Best Western, a "conditional" approval conveys no membership rights to the Applicant and conveys no rights to the Applicant to use the Best Western name or identification symbols, or to use any of the services provided by Best Western.

Application Not Confidential

9. Best Western may inform nearby Best Western hotels of this application. Applicant expressly consents to this disclosure and waives any right which Applicant may have to the confidentiality of this application.

Part II. Membership Agreement

10. This "Membership Agreement" section becomes operative only upon Best Western's written approval of the application and is subject to any condition that may be imposed under paragraph 7.

Membership Rights and Obligations

11. Best Western is a membership organization providing rights and obligations as set forth by the membership in the "Bylaws" and as set forth by the Board in the "Rules and Regulations". In connection only with the Hotel, Best Western agrees to provide to Applicant all rights, and Applicant agrees to abide by all obligations, as may be established from time to time in the duly adopted Bylaws and Rules and Regulations. APPLICANT ACKNOWLEDGES THAT APPLICANT HAS RECEIVED, READ AND UNDERSTOOD THE CURRENT BYLAWS AND RULES AND REGULATIONS.

12. Applicant agrees to timely pay all fees, dues, charges and assessments imposed generally on the membership by the Board, and the cost of all goods or services provided by or ordered through Best Western. Past due amounts shall bear interest at the rate of one and one half percent (1.5%) per month from the due date until paid, provided that such interest charge shall in no way authorize or excuse late payments or limit Best Western's rights and remedies against Applicant.

13. Where grounds for termination exist because of a default under this agreement, the Board may, in lieu of termination, impose additional conditions to membership. These may include, for example, higher quality assurance requirements, additional design requirements, or restriction of rights or services.

Agreement Term

14. The term of this Membership Agreement is through the end of Best Western's current fiscal year, which ends on November 30. Thereafter, this agreement may be renewed for additional one year terms as provided in the Best Western Bylaws. Applicant may terminate this Membership Agreement at any time without penalty. In the event that the Hotel continues to operate as a "Best Western" after termination of the Membership Agreement, Applicant shall pay full fees, dues, charges and assessments until the Hotel ceases operation as a "Best Western".

Member Market Area

15. A new application for membership for a property located within the member market area of a qualified hotel will not be accepted. An exception to this will only apply if the voting member responsible for each affected qualified hotel advises the Board of Directors in writing that the member has no objection to the approval of the application. For definitions of terms used in this section, and to determine if or how this section may apply to or affect the applicant, applicant should refer to Best Western's Bylaws & Articles, Article II, Section 3 (A & B).

Reservations & Communications Equipment; High Speed Internet Access

16. (a) Reservations & Communications Equipment

Applicant will purchase computer hardware through Best Western that will be used by the Applicant in receiving and sending reservations and in communicating with Best Western ("Hardware"). Applicant will also purchase Hardware maintenance through Best Western for three years. Best Western is not required to provide Hardware maintenance after such three years. Best Western has provided or will provide the computer software that is to be loaded into the Hardware ("Software"). Software programs are copyrighted by Best Western or licensed to Best Western by third parties. This Software is the property of Best Western and must be deleted or returned to Best Western upon demand. The Hardware and Software may be upgraded by Best Western or its designee from time to time. Best Western has provided or will provide communications equipment, (including but not limited to a satellite dish, related cabling, Personal Earth Station and optional credit card authorization equipment) for the purpose of reservations delivery and information exchange ("Communications Equipment") as long as Applicant is a member of Best Western. Communications Equipment may be upgraded by Best Western or its designee from time to time. Communications Equipment is the property of Best Western and must be returned to Best Western upon demand. Applicant will pay a monthly fee for the Communications Equipment.

In addition to the above, Applicant agrees:

(i) to use the Hardware, Software and Communications Equipment only for reservation communications with Best Western Central Reservations and with other Members and for other business purposes relating to the operation of the Hotel as a Best Western Hotel. The Hardware, Software and Communications Equipment may be upgraded from time to time by Best Western or its designee. Applicant may be charged an upgrade fee.

(ii) to not copy, disclose or allow to be copied or disclosed any of the Software programs. Only Best Western authorized software may be utilized on the Hardware. Any cost of service or maintenance required as a result of using unauthorized software, shall be the obligation of the Applicant and shall include a minimum service charge of \$200.00.

(iii) to abide in all respect with the terms of the Software licensed to Best Western, copies of which shall be provided on request, and with the terms of the Software copyrighted by Best Western. The Software licensed to Best Western and the Software copyrighted by Best Western shall be deleted or returned upon demand of Best Western and upon termination of the Membership Application and Agreement. Applicant shall provide Best Western with a signed statement that the Software has been deleted or returned.

(iv) to utilize Best Western for the maintenance and repair for three years of the Hardware purchased through Best Western and for the maintenance and repair as long as Applicant is a member of Best Western of the Communications Equipment provided by Best Western, both at Applicant's expense. In the event of Hardware or Communications Equipment failure or interruption of service, it will be the responsibility of the Applicant to participate in the troubleshooting process. It shall be the sole responsibility of Best Western to make final problem determination and dispatch technical resources as needed to achieve problem resolution.

(v) to assume and hereby assumes all risks and liabilities, whether covered by insurance or not, for loss or damage to or destruction of the Hardware, Software and Communications Equipment or any part thereof. Applicant shall replace, at its expense, any Hardware, Software, Communications Equipment or any part thereof which is lost, damaged or destroyed.

(vi) to return the Communications Equipment to Best Western in good condition, reasonable wear and tear excepted, upon demand.

(b) High Speed Internet Access

Applicant will, at its own expense, install, maintain and provide for its guests high speed internet access ("HSIA") that is compliant in all respects (including service and cost) with that required of other Best Western members, as such HSIA requirements may be changed from time to time by the Board of Directors or a vote of the members.

Relationship of Parties

17. Best Western is a non profit corporation operated on a cooperative basis by and for its hotelier members. The relationship of Best Western to its members is one of an independent contractor. Neither party has the power to obligate or bind the other in any way. No relationship of partners, joint venturers or agents is created. BEST WESTERN ONLY PROVIDES SERVICES AS DIRECTED BY THE MEMBERSHIP. BEST WESTERN HAS NO RESPONSIBILITY FOR THE USE, CONDITION OR OPERATION OF THE HOTEL OR THE SAFETY OF THE DESIGN OF ANY STRUCTURE OR PRODUCT. BEST WESTERN HAS NO CONTROL OVER OR RESPONSIBILITY FOR ANY DECISION AFFECTING THE EMPLOYMENT OR SUPERVISION OF ANY PERSON EMPLOYED IN CONNECTION WITH THE HOTEL.

Termination of Agreement

18. This Membership Agreement terminates:
- (a) upon sale or lease of the Hotel, or transfer of control of the Hotel, as more fully set forth in the Bylaws.
 - (b) upon default of any obligation to Best Western, as more fully set forth in the Bylaws, Rules and Regulations, and Operations Manual.

Part III. License Agreement

19. This "License Agreement" section becomes operative only upon Best Western's written approval of the application.

Grant of License

20. Best Western grants to Applicant a non-exclusive license to use, at and in connection with the Hotel, the Best Western name and those Best Western trademarks, service marks, and identification symbols as set forth from time-to-time in the Brand Identity Manual ("Best Western Symbols").

Ownership of Signs

21. Any portion of any sign displaying a Best Western Symbol is and shall remain the property of Best Western. Applicant transfers title of all such portions of signs, whether now owned or acquired in the future, to Best Western.

Termination of License

22. This license shall terminate upon termination of Applicant's Membership Agreement. Within fifteen (15) days of license termination, Applicant shall remove from public view and cease using all Best Western Symbols. This prohibition includes any representation, directly or indirectly that the Hotel was formerly affiliated with Best Western. Furthermore, Applicant shall actively take such steps as may be necessary to cause the cessation of all advertising and distribution of promotional material containing any Best Western Symbol.

23. Upon termination of this License Agreement, Applicant agrees not to use anything consisting of or incorporating any one or more words, letters, designs or devices which contain any part of any Best Western Symbol, or which singly or together are similar in spelling, sound, appearance or otherwise to any Best Western Symbol.

Remedies

24. For each day during which any Best Western Symbol or any name, symbol or device described in paragraph 23 are used in connection with the Hotel, after fifteen (15) days following termination of this License Agreement, Best Western may elect to claim from Applicant daily damages in an amount equal to fifteen percent (15%) of the mean of the Hotel's room rates per room per day multiplied by the total number of rooms. This amount is payable by Applicant whether or not Applicant continues to exercise control over the operations of the Hotel. It is understood and agreed that said amount is fixed as liquidated damages because of the difficulty of ascertaining the exact amount of damages that may be sustained because of such use. It is further understood and agreed that said amount fixed as liquidated damages is a reasonable amount, considering the damages that Best Western will sustain in the event of such use.

25. The rights provided in paragraph 24 shall be exercised solely at the option of Best Western. Best Western shall have the right to invoke any remedy at law or in equity, whether or not such remedy is herein provided. The exercise of any remedy shall not be deemed to be a waiver or exclusion of any other. If Best Western brings an injunctive action against Applicant, Applicant waives any requirement that Best Western post bond.

26. The obligations of Applicant and the remedies available to Best Western under this License Agreement are binding upon Applicant's heirs, executors, administrators, successors, assignees, receivers, and trustees in bankruptcy.

Part IV. General Provisions

27. Each provision in this "General Provisions" section is applicable to the Application, Membership Agreement, and License Agreement sections of this document.

Representations to Best Western

28. Applicant certifies that all representations made in connection with this Application and Agreement are true and constitute material representations for the purpose of inducing Best Western to grant membership. Applicant agrees that any misrepresentation shall be grounds for denial of this application or cancellation of membership. Applicant further agrees that any representations made in the future, whether in connection with renewing this agreement or otherwise, constitute material representations for the purpose of inducing Best Western to grant, continue or renew membership and that any false representation shall be grounds for denial of this Application, denial of membership renewal, or cancellation of membership.

Appointment of Voting Member as Attorney-in-Fact

29. The undersigned owner or lessee hereby appoints the undersigned voting member, and any substituted voting member, as its attorney-in-fact with full power and authority to bind owner or lessee in any and all agreements and liabilities which voting member may enter into or undertake to Best Western in connection with the Hotel. This authorization shall continue during the term of the Membership Agreement and during any renewal or continuation thereof, until terminated in writing by the owner or lessee. This power of attorney shall survive the death or disability of the undersigned.

Remedies

30. It is understood that Best Western shall have the right to invoke any remedy at law or in equity, whether or not other remedies are herein provided, for any breach of this Membership Application and Agreement, or for any other matter arising out of Applicant's affiliation or dealings with Best Western. All rights and remedies given to Best Western are distinct, separate and cumulative and no one of them, whether or not exercised by Best Western, shall be deemed to be an election of that remedy only or to be a waiver or exclusion of any of the others.

Limitation of Damages

31. Applicant agrees that Applicant shall have no recourse of any kind against Best Western, its directors, officers, employees, agents or members, if this application is denied. Applicant further agrees that Applicant shall have no recourse of any kind against Best Western, its directors, officers, employees, agents or members, for failure to grant membership after conditional approval unless Applicant has strictly, absolutely and timely complied with each and every requirement imposed upon Applicant by Best Western and this agreement, to the satisfaction of Best Western.

32. Applicant agrees that should the Hotel's Road Atlas and Travelers' Guide listing be omitted or if a material error occurs in any portion of the listing, whether or not through the negligence of Best Western, Applicant's sole remedy shall be the refund, without interest, of the annual dues paid on behalf of the Hotel. Best Western shall have no other liability in connection with the preparation or publication of the Road Atlas and Travelers' Guide.

33. Applicant agrees that Applicant shall be limited to actual damages for any breach or default by Best Western of any obligation or duty owed to Applicant, and Applicant further agrees that Best Western's liability for any damages shall be limited to the amount of membership fees actually paid by Applicant in connection with the Hotel, during a single fiscal year in which the breach or default occurred.

34. In the event that Best Western wrongfully fails to grant membership after making a "conditional" commitment for membership under paragraphs 7 and 8 of this Membership Application and Agreement, or if Best Western is found to have wrongfully failed to grant membership in any other situation, Applicant shall have no right to compel Best Western to grant a membership to Applicant. Applicant agrees that Applicant's sole remedy shall be limited to actual damages, which in no event shall exceed twice the amount of money paid by Applicant to Best Western in connection with the submission of this application.

Indemnification

35. Applicant shall indemnify, defend, and hold Best Western harmless and all of its employees, agents, representatives, and insurers (hereinafter collectively referred to as "indemnitees") from any and all claims, demands, suits, actions, proceedings, loss, cause and damages of every kind and description, including but not limited to any attorneys' fees and/or costs and expenses, whether or not a lawsuit is filed, which may be brought or made against or incurred by any indemnitee (a) arising out of, or contributed to, in whole or in part, by reason of any alleged act, omission, fault, mistake, or negligence of Applicant, its employees, agents, representatives, or subcontractors, in connection with or incident to the use, condition or operation of the Hotel, or (b) arising out of workers' compensation claims, unemployment disability compensation claims, or discrimination claims of employees of Applicant and/or its subcontractors or claims under similar such laws or obligations, or (c) in connection with any valid claim made by any indemnitee against Applicant for indemnity. Applicant's obligation under this section shall extend to any liability caused by the sole or concurrent negligence of an indemnitee (including both active and passive negligence).

Attorneys' Fees

36. In the event that Applicant breaches any obligation to Best Western, Applicant is liable to Best Western for all attorneys' fees, costs and expenses incurred by Best Western in connection with the breach or violation, whether or not suit is filed.

Application of Law and Choice of Forum

37. This Membership Application and Agreement shall be governed and construed according to the laws of the State of Arizona, unless any obligations under this Membership Application and Agreement shall be invalid or unenforceable under such laws, in which event the laws of the jurisdiction whose law can apply to and validate the obligations under this Membership Application and Agreement shall apply. This Membership Application and Agreement shall be deemed executed in Phoenix, Arizona.

38. Applicant acknowledges that Best Western is headquartered in Phoenix, Arizona, that the majority of Best Western's records and employees are in Phoenix, Arizona, and that Phoenix, Arizona is the most convenient locale for actions between Best Western and Applicant.

UNLESS WAIVED BY BEST WESTERN IN WHOLE OR IN PART, THE COURTS LOCATED IN THE STATE OF ARIZONA, STATE OR FEDERAL, SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ALL CLAIMS, DISPUTES AND ACTIONS ARISING FROM OR RELATED TO THE APPLICATION PROCESS, THIS MEMBERSHIP APPLICATION AND AGREEMENT OR TO ANY RELATIONSHIP BETWEEN THE PARTIES HERETO AND VENUE SHALL BE IN THE COURTS LOCATED IN MARICOPA COUNTY, ARIZONA. APPLICANT EXPRESSLY CONSENTS AND SUBMITS TO THE JURISDICTION OF SAID COURTS AND TO VENUE BEING IN MARICOPA COUNTY, ARIZONA.

Waiver

39. Any waiver by Best Western of a breach of any provision of this Membership Application and Agreement, or of any breach of any other requirement or policy of Best Western, shall not operate or be construed as a waiver of any subsequent breach thereof. Any delay by Best Western of enforcement of obligations shall not be deemed to be a waiver of Best Western's right to enforce the obligation.

Notices

40. All notices given by Best Western, under this Membership Application and Agreement or otherwise, shall be given to the voting member at such location as may be specified by the voting member, in writing, to the Best Western Membership Administration Department. Notice to the voting member shall constitute notice to each person or entity signing this Membership Application and Agreement. Any notice given to Best Western under this Membership Application and Agreement shall be given in writing to Best Western International, Inc., 6201 North 24th Parkway, Phoenix, Arizona 85016-2023, Attention Membership Administration, or such other location as may be specified by Best Western.

Headings

41. The headings of the sections of this Membership Application and Agreement are for convenience only and are not to be considered part of this Membership Application and Agreement or used in determining its content or context.

Severability

42. Any provision of this Membership Application and Agreement prohibited by law, or by court decree, in any jurisdiction shall be ineffective to the extent of such prohibition without in any way invalidating or affecting the remaining provisions of this Membership Application and Agreement.

Entire Agreement

43. This Membership Application and Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein. This Membership Application and Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto.

Signature of Owner or Lessee

44. The signature of all persons or entities having an ownership interest in the Hotel, or having a lessee interest in the lease, must sign. This means, for example, that a corporation owning the Hotel must sign through one of its authorized agents. It does not mean that each stockholder of the corporation must sign. **Please refer to the Applicant Information Form for additional instructions on owner or lessee signatures. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT YOUR BEST WESTERN REPRESENTATIVE. FAILURE TO PROPERLY SIGN WILL DELAY CONSIDERATION OF THIS APPLICATION.**

 Name

 Social Security No.

 Signature

 Date:

 Spouse's Name*

 Social Security No.

 Signature

 Date:

 Entity Name

 By:

 Signature of Authorized Signer

 Its:

 Title of Authorized Signer

 Date:

USE ADDITIONAL PAGES IF NECESSARY

***Spouse's name and signature is required only in community property jurisdictions. Community property jurisdictions are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Quebec, Texas and Washington.**

Signature of Voting Member

45. The voting member must sign using the voting member's name only. Any use of a title will delay consideration of this application. VOTING MEMBER IS PERSONALLY LIABLE FOR ALL OBLIGATIONS OF THE HOTEL TO BEST WESTERN UNDER THIS MEMBERSHIP APPLICATION AND AGREEMENT.

Voting Member

Signature (DO NOT USE TITLE)

Social Security No.

Date: _____

EXHIBIT 2

Combined TCA

December 20, 2006



CELEBRATING

60
years of caring

1946 | 2006

VIA EXPRESS DELIVERY

Mr. Vijay Patel
Horizon Hospitality
224 Brockton Dr
Madison, AL 35212

Re: Four Points by Sheraton
(Proposed Best Western Airport Birmingham)
Birmingham, AL (AL-200)

Dear Mr. Patel:

Your application for Best Western International, Inc. ("Best Western") membership was presented to the Board of Directors at its recent meeting. We are pleased to tell you that the Board granted "conditional" approval of your application (as defined in the Best Western Membership Application and Agreement you submitted). This means you can become a Best Western member by completing conditions contained in this letter and the accompanying Brand Transition Tool Kit. The Tool Kit also contains key contact information and describes services provided by Best Western to its members.

You should study the Tool Kit carefully making sure you fully understand each attachment and exhibit. They contain conditions and completion dates you must meet to become a Best Western member. The Tool Kit includes your Terms of Approval agreement due dates. The due dates for these Terms are stated as being due either "prior to activation on the reservations system" or "after activation on the reservation system". If you do not complete all of the conditions due prior to being activated on the reservations system by their completion dates, Best Western may withdraw your "conditional" approval and you will not be able to become a Best Western member. Of course, you will also need to complete the conditions due after activation on the reservation system by their completion dates and comply with the other requirements of membership to obtain and retain your Best Western membership. A duplicate letter and Tool Kit have been sent to your General Manager, if requested.

If you have an automated fax machine you will begin receiving *Best Western Today*, your weekly link to the world of Best Western. You will receive a package of information about B-W Supply that includes an explanation of Best Western's credit policy and a special offer of coupons with a \$500 value. In addition, you will receive packages, approximately monthly, that contain important notices, special offers and other information. Best Western's Annual Report is available on www.bestwestern.com/aboutus.

You must indicate your agreement with these Terms of Approval by returning a signed copy of the last page of the Terms of Approval by January 4, 2007.

Four Points by Sheraton
(Proposed Best Western Airport Birmingham)
Birmingham, AL (AL-200)
December 20, 2006
Page two

As you work on completing your Terms of Approval, please stay in contact with Ms. Shauna Bolyard (262) 677-1938 and the Best Western staff identified on the Key Contact List in the Tool Kit. They are anxious to help you with any questions you may have.

Welcome to Best Western! We are certain you will find your affiliation both profitable and enjoyable!

Sincerely,


CHERYL POLLACK, CHA
Director
Member Care and Development Administration

CP/ns

Enclosures



KEY CONTACT LIST

Your Best Western Property Transition Team

MAIN CONTACT:

New Member Development Manager
Member Care Representative

Shauna Bolyard
Nancy Sawyer

(262) 677-1938
(602) 957-5522

Regional Service Manager
Design Consultant
Manager, Design Brand Development
Architect, Plan Review/Technical Support
Brand Identity Coordinator
Manager of Contract Furnishings

Bob Cantrell
Laura Hemker
Neal Crandall
Michael Yager
Jana Benton
Linda Kilbourne

(423) 593-2819
(828) 670-5294
(602) 957-5538
(602) 957-5528
(602) 957-5611
(602) 957-5669

Director, Member Care and Development
Administration
Manager, Member Care Administration
Regional Director, North American
Development

Cheryl Pollack
Marie Johnson

(602) 957-5835
(602) 957-5562

Tom Osborn

(205) 982-9804

Board of Director, District 4
District 4 Manager
BestNet
Revenue Management Department
Property System Interfaces and Services Team

Bonnie McPeake
Rhonda Fox
Amy Cuda

Contact District Manager
(602) 957-5858
(623) 780-6735
(800) 766-9247
(800) 942-3780

December 20, 2006

BEST WESTERN TERMS OF APPROVAL

Four Points by Sheraton
Birmingham, AL (AI-200)
Page 1 of 9



The Best Western Membership Application and Agreement for the above-referenced property was submitted jointly by the owner or lessee of the property and the undersigned Voting Member. Throughout these Terms of Approval the owner/lessee and Voting Member are referred to jointly by such terms as "you" and "your".

"Conditional" approval of the above-named property was granted by the Best Western Board of Directors at its recent meeting. This means you can become a Best Western member by completing these Terms of Approval in accordance with the accompanying material by their due dates.

"Conditional" approval is defined in the Membership Application and Agreement you submitted. During your conditional status services provided to fully qualified Best Western members are not yet available to you. For example, you may not advertise your property as a Best Western property nor register an internet domain name for your property using the words "Best Western" until you complete the conditions due prior to being activated on the Best Western reservations system. Monetary damages may be assessed for any infringement of Best Western's trademarks.

The "Terms of Approval and Due Dates" are stated as being due either prior to "Activation on the Reservations System" or after "Activation on the Reservations System". If you do not complete all of the conditions due prior to being activated on the reservations system by their completion dates, Best Western may terminate your conditional approval and you will not be able to become a Best Western member. You must also complete the conditions due after activation on the reservations system by their completion dates and comply with all requirements of membership to obtain and retain your Best Western membership.

Activation on the reservations system can only occur if all Terms of Approval with Due Dates prior to "Activation on the Reservations System" are completed by their Due Dates. Approval of your Membership Application and Agreement will still be conditional after activation on the reservations system. Approval of your Membership Application and Agreement will remain conditional until you meet all of the following requirements concurrently or until conditional approval is terminated. (See Attachment G in the Brand Transition Tool Kit ("Tool Kit"). The requirements that must be met concurrently before your Best Western membership can be granted are:

- All conditions contained in these Terms of Approval have been met by their Due Dates,
- The property has attained a minimum Guest Rooms/Public Areas Quality Assurance Assessment score of at least 875 points,
- The property has attained a passing level score on each other specific Quality Assurance Assessment,
- All items on the Design Property Improvement Plan have been completed,
- Your account balance with Best Western is current, and
- The property complies with, and the owner/lessee and Voting Member must have complied with, all Best Western Bylaws, Rules & Regulations and other regulatory documents.

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Terms of Approval and Due Dates

JANUARY 4, 2007, AND PRIOR TO ACTIVATION ON THE RESERVATIONS SYSTEM (IF SOONER)

- **Sign and return the last page of these Terms of Approval indicating your agreement with all of the "Terms of Approval."** You and Best Western agree that signatures exchanged by facsimile will be considered to be original signatures, but if you send Best Western a facsimile signature, you must also mail your originally executed Terms of Approval agreement. **The affiliation fee you submitted becomes nonrefundable upon receipt of your faxed or originally signed agreement by Best Western at 6201 North 24th Parkway, Phoenix, Arizona 85016, Attention: Member Care Administration, on or before the due date.** (The \$3,000 evaluation fee was nonrefundable upon payment.)

Best Western will assign a property number after the affiliation fee becomes nonrefundable. This number will enable you to access the information available to Best Western members on www.mybestwestern.com

- **Complete and return the VSAT Install Questionnaire.** VSAT (Very Small Aperture Terminal) will deliver reservations messages from Best Western's worldwide network to your property once all conditions have been met for activation of your property. This questionnaire will assist Hughes Network Systems with installation of VSAT at your property. (See Attachment K in the Tool Kit.)
- **Submit properly executed Pages 1 and 9 of the Membership Application and Agreement, indicating the entity name as owner or lessee (copies enclosed).**
- **Submit a new and unique proposed Best Western name for this property.** Generic names such as Best Western Inn, Best Western of (Anytown), Best Western Inn & Suites, etc., are not permitted, as they give guests the impression that these properties are owned and operated by Best Western International, Inc. Therefore, modifiers or descriptors are required, e.g.: "Best Western Birmingham Airport Inn". It is your obligation to research and confirm that usage of the selected name does not infringe the rights of any other entity. Use of "Suites" or "& Suites" in the property name is only permitted if the property meets the criteria for suites set forth in the Design Guidelines.

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FEBRUARY 20, 2007, BUT NO LATER THAN 120 DAYS PRIOR TO ACTIVATION ON THE RESERVATIONS SYSTEM (IF SOONER.)

- Submit furniture, fixtures and equipment selections ("FF&E") to the Best Western Design Department for review and approval prior to purchase and installation.
- Any changes made to approved FF&E must be resubmitted for approval. Commencement of activation proceedings may be delayed or conditional approval of the Membership Application and Agreement may be terminated if required approvals are not obtained. (See Attachment C in the Tool Kit.)
- A Manager, Regional Services will conduct an assessment to verify compliance with the Property Improvement Plan. The Property Improvement Plan is in the Tool Kit, and includes the Design Property Improvement Plan and the Quality Assurance Report described below.

JUNE 20, 2007 AND PRIOR TO ACTIVATION ON THE RESERVATIONS SYSTEM (IF SOONER) **(Continued)**

- The Design Property Improvement Plan is a list of items of a design nature and/or other items that do not meet Best Western requirements. All items must meet Best Western standards prior to activation on the reservations system. Refer to the *New Construction and Refurbishment Guidelines, as well as the Addendum to the New Construction and Refurbishment Guidelines* ("Design Guidelines") in the Tool Kit.

In addition to completing all items on the Property Improvement Plan, you must meet Design Guidelines prior to operating as a Best Western. Any items or areas found not to be in compliance with the current design program after you begin operating as a Best Western will need to be brought into compliance by the dates stated in the Design Guidelines (items whose compliance dates have passed must be brought into compliance prior to the next regular assessment).

- The Quality Assurance Report is the evaluation of your property based on the prior visit by the Manager, Regional Services, and is a list of noted deficiencies in housekeeping, maintenance and capital expenditure which require repair or replacement mainly due to damage and wear.
 - A minimum score of 875 points must be achieved on the Guest Rooms - Public Areas Assessment Summary.
 - A minimum score of 800 points must be achieved on each area listed in the Supplemental Facilities Assessment Summary.

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JUNE 20, 2007 AND PRIOR TO ACTIVATION ON THE RESERVATIONS SYSTEM (IF SOONER) Continued

- Full compliance is required on the Locking Devices Assessment. (See Attachment A in the Tool Kit.)
- All items on the Minimum Standards Assessment, with the exception of items requiring use of the Best Western logo, must be completed. Compliance with the logo'd items is required within 90 days after activation on the reservations system and will be verified at the next assessment of the property following activation on the reservations system. A minimum score of 800 points must then be achieved on the Minimum Standards Assessment as well as on the Brand Identity Assessment. (See Attachment D in the Tool Kit.)

It is the responsibility of the owner/lessee, Voting Member, property management and contracted professionals to meet all requirements of Best Western's Bylaws, Rules & Regulations, policies and other regulatory documents, and to ensure compliance with all fire, health, safety and building codes and, for U.S. properties only, the Americans with Disabilities Act (A.D.A.).

Exterior work delayed by weather conditions may not be eligible for consideration for extended due dates by the Best Western Board of Directors. If your Property Improvement Plan includes exterior items (including landscaping), you are responsible for considering the weather conditions in your specific geographic location and the time of the year during which all required work must be performed to meet your Due Dates.

- **Submit a Certificate of Insurance** that complies with Chapter V of Best Western's Rules and Regulations (See Attachment B in the Tool Kit). Best Western International, Inc. must be named as an Additional Insured "for its active and passive negligence directly or indirectly related to claims arising from acts occurring at or concerning the property" on all insurance policies, including, but not limited to, primary, excess and umbrella policies, providing coverage to Best Western. Use ISO Form CG20-26-11-85 or its equivalent to comply; or complete, have signed and return Attachment B in the Tool Kit. The minimum coverage limits are \$1,000,000 per occurrence for, but not limited to, commercial general liability, contractual liability and owned and non-owned automobile liability. This insurance must be issued by an insurance carrier which is rated no lower than "B+" in the most current edition of A.M. Best's Key Rating. You acknowledge and agree that Best Western has not and does not represent or warrant that the stated minimum coverage limits or carrier ratings are adequate for your business. You should obtain higher limits and/or ratings if appropriate.
- **Comply with Best Western's High Speed Internet Access (HSIA) requirements.** At your own expense and prior to activation of the property on the reservations system, you must install, provide and maintain 100% free high speed internet access that is compliant in all respects (including service) with Best Western requirements, as they may change from time to time. (See Attachment S in the Tool Kit.)

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JUNE 20, 2007, AND PRIOR TO ACTIVATION ON THE RESERVATIONS SYSTEM (IF SOONER) (Continued)

- **Submit a proposal to display the required Best Western property name sign.** This sign must be an Option 1, Option 2, or Option 3 sign that is at least 50 square feet in size as described in the Best Western Global Brand Identity Manual. Also, submit for approval proposals to display any secondary Best Western property name signs or Best Western directional signs along with a plot plan showing the proposed location of all signs. All Best Westerns signs and sign faces must be manufactured by a Best Western endorsed sign vendor. (See Attachment E in the Tool Kit.) Existing sign cabinets may only be retrofitted with new panels as secondary signage and as described in the Best Western Global Brand Identity Manual. The Manual is available online at www.mybestwestern.com. Best Western will consider requests for waivers if its requirements conflict with local ordinances and the locality will not issue a variance. **Best Western signs may not be installed without written approval from Best Western's Brand Identity Administration Department.** Display of the Best Western logo prior to being activated on the Best Western reservations system may result in fines and/or termination of your conditional approval.
- **Submit for approval your plans to incorporate Best Western into your property's advertising.** This must include all collateral materials displaying the Best Western logo, e.g., printed materials, advertising, in-room amenities, business forms, etc., as well as websites, courtesy vehicles and billboards. The Global Brand Identity Manual contains specifications for items which include the Best Western logo. The Manual is available online at www.mybestwestern.com. Layouts of items which display the Best Western logo must be submitted for approval to your Best Western Brand Identity Coordinator, unless ordered through Best Western Supply. (See Attachment E in the Tool Kit.)
- **Provide documentation satisfactory to Best Western from Sheraton confirming the termination date of affiliation with that organization.** All signs and logo items identifying Sheraton affiliation must be removed from the premises and elsewhere.
- **Satisfy the following Best Western orientation requirements:**
 - **The Voting Member and property staff must participate in On-Site Orientation** conducted by a Manager, Regional Services who will visit your property and provide an overview of the programs and services available through Best Western membership. **Best Western will attempt to conduct this prior to your property's activation on the reservations system, and no later than two weeks after that if the visit cannot be coordinated prior to activation on the reservations system.**

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JUNE 20, 2007, AND PRIOR TO ACTIVATION ON THE RESERVATIONS SYSTEM (IF SOONER) (Continued)

After satisfaction of the foregoing conditions, you will be billed for 2007 Annual Dues, which will be prorated based on the date Best Western confirms satisfaction of all requirements scheduled to be completed prior to activation on the reservations system. Annual Dues are nonrefundable and based on the unit count. Your application was conditionally approved with 198 units. UNIT COUNT CHANGES are subject to Best Western approval. (See Attachment N in the Tool Kit.)

ACTIVATION ON THE RESERVATIONS SYSTEM will only be authorized after all of the foregoing requirements have been satisfactorily met. Compliance with requirements related to Quality Assurance and Design must be verified by Best Western headquarters' staff through review of the assessment reports and photographs submitted by the Manager, Regional Services after a visit to your property.

WITHIN 60 DAYS AFTER ACTIVATION ON THE RESERVATIONS SYSTEM

- Complete the purchase and scheduling of virtual tour and still photo services from VFM Interactive. The package must include five panoramic virtual tours and eight still photographs. Hosting services and fees will be paid by Best Western International, Inc. (See Attachment in the Tool Kit).
- Satisfy the following Best Western orientation requirements:
 - The Voting Member (or other designated person actively involved in the day-to-day operation of the property) must complete the new member three-day, On-Site Revenue Management Training and successfully pass the certification test at the end of the training session. You will be contacted by an RTM in advance of this due date. The RTM will consult with you to select appropriate marketing plans and promotions. The RTM will also work with you through the process of submitting your reservations information electronically (which must be fully completed by this date) and will work with you to schedule the above-mentioned training.
 - The Voting Member must attend Voting Member & Manager Orientation held in Phoenix. In order to receive credit for this requirement, attendance is required at the entire two-day seminar. If any portion of the seminar is not attended, the Voting Member will be required to attend the missed portion at the next available seminar. (See Attachment E&T VM in the Tool Kit.)
 - The General Manager must attend the General Manager Professional Development Program held in Phoenix. Exemption from required attendance by the General Manager is possible if specific criteria can be met as described in more detail in Attachment E&T GM in the Tool Kit.

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WITHIN 90 DAYS AFTER ACTIVATION ON THE RESERVATIONS SYSTEM

- Implement integration of the Best Western CRS, with its related booking links, and the local Property Management System at the property. (See Attachment Q in the Tool Kit.)
- Install approved Best Western signs and submit color day and night photographs of your Best Western signs to the Brand Identity Administration Department.
- Comply with approved proposals to incorporate Best Western into your property's advertising.

6 MONTHS FOLLOWING ACTIVATION ON THE RESERVATIONS SYSTEM

- Six months following activation on the reservations system a Manager, Regional Services will conduct an assessment. The following must be achieved each time:
 - Maintain a minimum Guest Rooms/Public Areas Quality Assurance Assessment Score of 875 points. This requires addressing all deficiencies and marginal items noted on previous assessments in all rooms and public areas regardless of whether or not they were previously inspected.
 - Attain a passing level score on each other Quality Assurance Assessment.
 - Complete all outstanding items on the Property Improvement Plan (if applicable).

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Additional Requirements

- **RESERVATIONS & COMMUNICATIONS EQUIPMENT** – Purchase, install and use computer hardware required by and obtained through Best Western for sending and receiving reservations and to communicate with Best Western. You will purchase hardware maintenance through Best Western for three years. Best Western is not required to provide hardware maintenance after the three years.
- **MEMBER MARKET AREA YEARLY ASSESSMENT** – Comply with the Member Market Area yearly assessment requirements. (See Attachment M in the Tool Kit.)
- **RESTAURANT** – Best Western requires that each property provide a restaurant, not to include a food operation in a competitive hotel, within 500 feet of the lodging facility. You may satisfy this requirement by offering a compliant continental breakfast on-site or at an immediately adjacent facility (within 200 feet). (Refer to the Global Quality Assurance Manual for detailed breakfast service requirements.)
- **LEASED FACILITIES** – All facilities associated with the hotel property, e.g., restaurant, lounge, gift shop, are subject to Best Western assessment and renovation requirements. If any facilities at the property are leased, the lease(s) must allow for assessment and renovation. Refer to Best Western's Rules & Regulations regarding assessment and maintenance of the facilities.
- **BEST WESTERN HOTEL GUIDE & ROAD ATLAS**. Solicitations for the 2008 Hotel Guide and Road Atlas will be sent to you around April 2007. The publication will go to print in September and be available for distribution in November 2007. Your inclusion in this publication will be dependent upon satisfaction of these Terms of Approval.
- **OWNERSHIP CHANGES**. You must notify Best Western immediately of any changes in ownership or in any of the information submitted on or with your Membership Application and Agreement. Changes must be approved by Best Western and may affect your becoming a Best Western member.

Incl (sqnd Agent)
original

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07-02-2007 RCVU

**BEST WESTERN
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Signed Agreement

The undersigned Voting Member acknowledges and agrees that he/she has read and understands the foregoing Best Western "Terms of Approval" and agrees to the conditions. The undersigned acknowledges and agrees that **failure to comply with any terms and conditions of these Terms of Approval may result in termination of the conditional approval of the Membership Application and Agreement.** The undersigned understands that the property may not be operated as a Best Western or be identified as a Best Western in any way until the specific conditions outlined herein have been satisfied and written authorization to do so has been received from Best Western International, Inc. The undersigned understands that procedural rights which are normally afforded to Best Western members are being waived until all of the conditions stated in these Terms of Approval have been performed to the Board's satisfaction. The undersigned acknowledges and agrees that the applicant is waiving the right to probation and the right to a hearing before the Board of Directors. The undersigned understands that the Board of Directors may restrict the property's reservations listing for non-compliance with any requirement. The undersigned understands and agrees that only after all of the Terms of Approval have been satisfied by their required due dates, may approval of the Best Western membership be granted and these procedural rights become available. The undersigned understands that during conditional status services provided to Best Western members are not yet available. The undersigned further understands that he/she will not be able to vote on any upcoming issues until the property is activated on the Best Western reservations system and the Voting Member has returned a completed Voter Registration Card.

The undersigned Voting Member acknowledges and agrees that he/she is responsible, jointly and severally with the owner/lessee, for all obligations to Best Western arising under the Membership Application and Agreement and under these Terms of Approval or relating to the affiliation of the above-referenced hotel property with Best Western.

The undersigned Voting Member acknowledges and agrees on behalf of himself/herself and the owner/lessee of the above referenced property to comply with all of the terms and conditions of these Terms of Approval.

Voting Member of Above-Referenced Property

Signature: Printed Name: VIJAY PatelDate: 1/3/07